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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

Christine Whalen, et al.,

Plaintiffs,

v.

Kroger Co., Albertsons Companies, Inc.,  
and Cerberus Capital Management, L.P.,

Defendants.

Case No.: 23-cv-00459-VC

**STATEMENT OF RECENT DECISION  
PURUSANT TO LOCAL RULE 7-3(d)(2)**

Date: October 20, 2023  
Time: 10:00 AM  
Judge: Hon. Vince Chhabria

Complaint Filed: February 2, 2023

Pursuant to Northern District of California Civil Local Rule 7-3(d)(2), Plaintiffs respectfully submit this Statement of Recent Decision to bring to the Court's attention Judge William Young's recent decision in *Garavanian, et al. v. JetBlue Airways Corporation*, No 1:23-cv-10678-WGY (October 11, 2023 D. Mass.), ECF No. 310. Judge Young granted in part and denied in part a motion to for summary judgment filed by the Defendants in that case against a complaint asserting a similar Section 7 claim seeking to halt the merger of JetBlue Airways

Corporation with Spirit Airlines. A true and correct copy of the decision is attached hereto as Exhibit A. The *JetBlue* decision concerns allegations similar to those at issue in the instant action as it relates to standing and is therefore relevant to issues raised in the Joint Status Report before the Court.

In addition, in order to provide context to the Massachusetts Court's decision, Plaintiffs have attached a true and correct copy of the transcript of the proceedings held at the hearing on the Motion for Summary Judgment in Boston and respectfully direct this Court's attention to the passage at page 9, line 24 of the transcript where, in reply to the argument that Plaintiff Garavanian was the only person who flew an affected route out of over 700 routes, Judge Young stated: "He only needs 1."

Dated: October 19, 2023

Respectfully submitted:

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